

Notice of Allowability	Application No.	Applicant(s)	
	09/932,353	BACHLER ET AL.	
	Examiner	Art Unit	
	Jonathan ML Foreman	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 8/4/04.
2. ☒ The allowed claim(s) is/are 28-33 and 45-73.
3. ☒ The drawings filed on 18 November 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20041112</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312.

To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Bob Bodi on 11/9/04.

The application has been amended as follows:

In claim 28:

In line 7, replace "adapted for positioning" with --positioned--.

In line 11, delete "adapted for being".

Claim 30 is rewritten as:

A method for enhancing auditory capacity, comprising ~~An implantable hearing device~~
comprising:

providing an implantable hearing device comprising at least one permanent magnet ~~adapted~~
~~for being~~ solidly attached on a promontory in the area of the middle ear; and at least one coil,
separate from said permanent magnet, adapted for placing in the area of the middle ear; ~~said~~
~~hearing device for implementing a method comprising the steps of:~~ converting an acoustic signal
into an electrical signal; and converting said electrical signal into a mechanical oscillation of ~~[[a]]~~ said
coil ~~adapted for positioning in a middle ear.~~

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Claim 31 is rewritten as:

A method for enhancing auditory capacity, comprising ~~An implantable hearing device~~
comprising:

providing an implantable hearing device comprising at least one permanent magnet adapted
for being solidly adjustably attached on a promontory in the area of the middle ear; and at least one
coil, separate from said permanent magnet, adapted for placing in the area of the middle ear; ~~;-said~~
~~hearing device for implementing a method comprising the steps of:~~ converting an acoustic signal
into an electrical signal; and converting said electrical signal into a mechanical oscillation of ~~[[a]]~~ said
coil adapted for positioning in a middle ear.

Claim 32 is rewritten as:

A method for enhancing auditory capacity, comprising ~~An implantable hearing device~~
comprising:

providing an implantable hearing device comprising at least one permanent magnet adapted
for being solidly attached on a promontory, in an adjustable fashion, in the area of the middle ear;
and at least one coil, separate from said permanent magnet, adapted for placing in the area of the
middle ear; wherein an air-gap between said permanent magnet and said coil can be adjusted by
post-implantation adjustment of said magnet; ~~;-said hearing device for implementing a method~~
~~comprising the steps of:~~ converting an acoustic signal into an electrical signal; and converting said
electrical signal into a mechanical oscillation of ~~[[a]]~~ said coil adapted for positioning in a middle ear.

In claim 45, insert --is-- following “coil” in line 1.

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In claim 49, insert a period -- . -- following "chain" in line 2.

1. The following is an examiner's statement of reasons for allowance: No prior art teaches or fairly suggests Applicant's claimed method where electrical signals are converted into mechanical oscillations of a coil positioned in a middle ear by utilizing a permanent magnet separate from the coil that is attached to the promontory..

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan ML Foreman whose telephone number is (703) 305-5390. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (703)308-3130. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JMLF



MAX E. HINDENBURG
SENIOR PATENT EXAMINER
TECHNOLOGY CENTER 3700